

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA EASTERN DIVISION**

**DEBORAH S. GRAVES, individually,
and as adoptive parent, guardian, and
next friend of D.R.S., a minor,**

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

CASE NO.:

COMPLAINT

COMES NOW the Plaintiff, Deborah S. Graves, individually, and as adoptive parent, guardian, and next friend of D.R.S., by and through her undersigned counsel, and for her cause of action against Defendant, United States of America, hereby states the following:

JURISDICTIONAL ALLEGATIONS

1. Plaintiff, Deborah S. Graves, is an individual and, at all times material, was a resident of Lisbon, Linn County, Iowa.
2. Plaintiff, Deborah S. Graves, is the adoptive parent and guardian of D.R.S.
3. D.R.S., is a minor child and, at all times material, was a resident of Lisbon, Linn County, Iowa.
4. The U.S. Army Corps of Engineers is an independent agency of the federal government of the United States of America and is responsible for providing maintenance of outdoor, water- based recreational and multiple use project areas.
5. The events giving rise to this cause of action occurred in Solon, Johnston County, Iowa on June 17, 2020.
6. Pursuant to 28 U.S.C. §1346(b)(1), the district court has exclusive jurisdiction of civil actions on claims against the United States of America for money damages for personal

injury caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his or her office of employment under circumstances where the United States of America, if a private person, would be liable to the Plaintiff in accordance with the law of the place where the act or omission occurred.

7. Plaintiff has complied with the provisions of 28 U.S.C. §2675 and this action is based on a claim denied by the agency on January 24, 2023.

FACTS

All of the above paragraphs are hereby incorporated by reference herein.

8. On June 17, 2020, at approximately 4:15 p.m., D.R.S, a minor, was skateboarding on a paved road at a campground called Sugar Bottom Campground located at an address locally known as 2192 Mehaffey Bridge Road NE in Solon, Iowa.

9. At the same place and time, D.R.S. encountered a defective and unsafe portion of the paved road at said campground which caught the wheel of his skateboard throwing him off of the skateboard and causing him to fall.

10. As a result of the fall, D.R.S. suffered injuries and damages.

11. The U.S. Army Corp of Engineers was responsible for the maintenance of the public area and paved roads at Sugar Bottom Campground.

COUNT I – NEGLIGENCE/PREMISES LIABILITY OF DEFENDANT, UNITED STATES OF AMERICA UNDER THE FEDERAL TORT CLAIMS ACT (28 U.S.C. §1346(b))

All of the above paragraphs are incorporated herein by reference.

12. Defendant knew, or in the exercise of reasonable care should have known, that the unsafe condition of the cracked asphalt at the campground posed an unreasonable risk of harm to a person in D.R.S.' position.

13. Defendant knew, or in the exercise of reasonable care should have known, that:

- a. D.R.S. would not discover the crack in the asphalt prior to falling;
- b. D.R.S. would not realize the cracked asphalt presented an unreasonable risk of injury; and/or
- c. D.R.S. would not be in a position to protect himself from campground's dangerous condition.

14. Prior to D.R.S.' fall it was reasonably foreseeable by Defendant that a person in D.R.S.' position would use a skateboard on the paved roads at the campground.

15. Defendant was negligent in the following ways:

- a. In failing to reasonably inspect the campground for dangerous conditions;
- b. In failing to take reasonable measures to maintain the area of the campground;
- c. In failing to give adequate warning to lawful visitors and business invitees of the dangerous condition at the campground;
- d. In failing to give adequate measures to prevent lawful visitors and business invitees from traversing over the dangerous condition of the campground;
- e. In failing to properly maintain the condition of the public areas located within the campground; and
- f. In failing to act as a reasonably prudent owner and/or possessor of the real property under all circumstances then and there existing.

16. Defendant's negligence caused D.R.S.' injuries and damages.

17. As a result of Defendant's negligence, D.R.S. suffered the following injuries and damages:

- a. Past and future medical expenses;
- b. Past and future physical pain and mental suffering;
- c. Past and future loss of full mind and body; and
- d. Any other element of loss recognized by state or federal law not specifically set forth herein.

WHEREFORE the Plaintiff, Deborah S. Graves, individually, and as adoptive parent, guardian, and next friend of D.R.S., a minor, demands judgment against Defendant, United States of America, in an amount that will fully and fairly compensate her for the harms, losses, injuries, and damages that she and D.R.S. sustained, together with pre- and post-judgment interest at the rate allowed by law, and for the costs of this action, and for any and all other and further relief as the Court may deem just and proper under the circumstances.

Respectfully submitted,

Hupy and Abraham, S.C., P.C.

/s/ Eric K. Schade

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